

The background is a topographic map with contour lines and a blue boundary. The map shows a grid of contour lines with labels such as 20, 40, and 60. A thick blue line follows a path across the map, with a shaded blue area along its length. The text "Section 4 Governance Options" is overlaid on the map.

# Section 4 Governance Options

# Governance Options

## Section 4

This section describes various groundwater management options, and gives details of three that may be more feasible for the Central Basin.

### *Methods of Groundwater Management*

In California, no mandatory groundwater management scheme is imposed by state statute; the state is not authorized by the California State Water Code to manage groundwater. As a result, five methods of groundwater management have evolved over time, including the following:

- **AB 3030 plan.** The Groundwater Management Act, commonly referred to as AB 3030, was signed into law on September 26, 1992, and became effective on January 1, 1993. AB 3030 allows certain local public agencies to form a groundwater management plan, called an AB 3030 plan, and have management authority over groundwater resources. Implementation of and participation in an AB 3030 plan is voluntary, not mandatory.
- **Adjudicated basin.** In some California groundwater basins, landowners or other stakeholders turn to the courts to settle disputes over how much groundwater can rightfully be extracted by each landowner. (This process can be lengthy and costly.) Sixteen basins in California are **adjudicated basins**. For these basins, the courts determine who can pump groundwater, how much groundwater each extractor may use, and who will manage the basin according to the court's decree.
- **City and county ordinances.** In 1995, by declining to review a lower court decision, the California Supreme Court acknowledged that cities and counties have the power to regulate groundwater under their existing police powers.
- **Local agencies.** Twenty-three types of districts or local agencies are identified in the California Water Code as having authority to manage surface water. Some of these entities also have the authority to develop some forms of groundwater management. Certain districts or agencies have done so; others have not. (SCWA is a local agency.)
- **Special legislation districts.** In California, groundwater management districts or agencies with special powers to regulate groundwater can be formed only after special legislation is enacted by the state legislature (there is no generic groundwater management district act in the State Water Code). Special legislation by the State of California has created 12 groundwater

#### **adjudicated basin**

Groundwater basin for which it has been determined by the court system who has rights to water and how much of the water.

### Joint Powers Agreement

Two or more public agencies may, by agreement, jointly exercise any power held in common.

management agencies or districts. For most of the districts, the legislation was passed only after several years of effort by landowners and other stakeholders in the affected areas. Such legislation allows the districts to enact ordinances to limit or regulate groundwater extraction.

## *Selecting a Groundwater Management Option*

To determine which groundwater management option might be the most practicable for the groundwater basin in the Central Basin, these criteria can be applied:

- What is simplest?
- What is most cost-effective?
- What will enhance the sustainability of the groundwater resource?
- What will ensure local control of the basin?
- What will protect the rights of all users?

Considering these standards, three of the options outlined above seem most relevant:

**1. AB 3030 plan.** The California Water Code (§10750 et seq.) provides statutory authority for public water agencies to develop groundwater management programs in unregulated groundwater basins. Details of the management program are determined at the local level.

Such a plan is entirely voluntary and not mandatory. A protest by a majority of landowners in the district can halt implementation. In addition, pursuant to the Water Code, an election is required before an agency can fix or collect any fees to support the groundwater management program.

The Water Code also requires coordination among local agencies, encourages memoranda of understanding and **Joint Powers Agreements** for cooperative programs, and prohibits new programs where groundwater is already subject to management.

**2. City and county ordinances.** Because the cities of Elk Grove, Rancho Cordova, and Sacramento and Sacramento County already have authority to manage groundwater under their existing regulatory/police powers, a Joint Powers Agreement could be created to establish a Joint Powers Authority (JPA) for managing groundwater in the Central Basin. The responsibilities of the JPA would specifically include determining and maintaining the sustainable yield of the basin, managing use of groundwater, helping to implement conjunctive use programs, and coordinating efforts among participants to devise and execute strategies to safeguard groundwater quality.

To meet legal requirements, all members serving on the JPA would have to be appointed by the signatories of the JPA (i.e., the cities and Sacramento County). Who would be represented as a member of the JPA (i.e., which interests) and who would appoint those representatives would be negotiated by CSCGF and included in the provisions of the JPA. Specifics of how the JPA would make decisions (i.e., voting procedures) could also be negotiated by the CSCGF and included in the JPA.

The JPA would be responsible for determining the allocation of and rate for regulatory fees or charges to cover costs for operating the JPA.

**3. Local agencies.** The SCWA is a local agency. Under the authority of the Sacramento County Water Agency Act (6730 - §32 – 55), the SCWA Board of Directors may establish groundwater management zones within any area under the jurisdiction of the SCWA that has been identified in a map filed by the clerk of the board. Changes to the map may be made through the same procedures that were required to form the zone.

A groundwater management zone is created through proper public notice and hearings that define groundwater problem(s) and potential solutions(s). If owners of 50 percent or more of the land area or 50 percent or more of the registered voters within the proposed zone protest, the proceeding is to be terminated for a minimum of 6 months.

The SCWA Board of Directors, after creating a Sacramento County Groundwater Management Zone, could levy and collect groundwater charges for producing groundwater within the zone. These charges would most likely be subject to the requirements of **Proposition 218**, which requires voter approval prior to assessment of any new fee or tax.

## JPA

Joint Powers Authority

Organization formed to carry out a Joint Powers Agreement.

## Proposition 218

State of California legislation that requires voter approval prior to assessment of any new fee or tax.

The Sacramento County Water Agency Act further allows Groundwater Management Zone Councils to be created to advise the Board of Directors. The number of members for each council and terms of office for council members would be determined by resolution of the board. Members must be appointed by the board from among eligible voters or landowners within the groundwater management zone.

### ***Next Steps***

Stakeholders who represent all segments of the community in the Central Basin were identified and invited to join CSCGF. During CSCGF meetings, stakeholders participated in an education process to gain an understanding of current groundwater conditions in the Central Basin. Members of CSCGF are now poised to participate in an interest-based negotiation process to choose how groundwater in the Central Basin might be managed (i.e., choice of governance method and subsequent negotiated program standards and regulations). The future of groundwater in the Central Basin depends on informed decisions made today.